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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 2, 2018, at 12:30 p.m.

Senate

MONDAY, OCTOBER 1, 2018

(Legislative day of Friday, September 28, 2018)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable ROY BLUNT, a Senator from the State of Missouri.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious God, let Your glory be over all the Earth. Thank You for Your faithfulness that endures forever.

Today, give our lawmakers steadfast hearts that will honor You. Provide them with wisdom to strive to do Your will. May their debates and discussions not degenerate into incivility. Lord, lead them throughout life's changing scene, strengthening them for every challenge. Remind them of the importance of reverential awe, which is the beginning of wisdom.

Grant us all wisdom and courage for the living of these days.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore (Mr. HATCH).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 1, 2018.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROY BLUNT, a Senator from the State of Missouri, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

Mr. BLUNT thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE CALENDAR—Continued

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The senior assistant legislative clerk read the nomination of Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. SCHUMER. Mr. President, on Friday, Senators FLAKE, COLLINS, and MURKOWSKI, joined by Democratic Sen-

ators COONS, KLOBUCHAR, and others, made the only fair move to demand that the FBI investigate the credible allegations of sexual misconduct by Supreme Court nominee Brett Kavanaugh. It was the right thing to do. It was fair to both Dr. Blasey Ford and to Judge Kavanaugh.

For too long Republicans have rushed this process forward and likely would have rushed to a final vote if not for the prudent and bipartisan effort of those Senators to demand a full FBI investigation.

What is important now is for the FBI investigation to be serious, impartial, and thorough, to ferret out the facts and do so quickly. That means interviewing all—all of the relevant witnesses and accepting corroborating accounts when they come forward. It also means following up on any leads that emerge from the process of the investigation.

The FBI has ample resources to do this within the 1-week period requested by the members of the Judiciary Committee. No one is asking that it take longer than a week, but everyone is asking that it be done thoroughly and completely within that week.

There is concern that the White House has placed severe constraints on the investigation. Until today, the President tried to dodge that responsibility, with the White House even saying the Senate is somehow responsible for the scope of the investigation. Let me be clear. The Senate has no control over the scope of an FBI investigation of this sort—only the White House.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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A few hours ago, I was glad to hear President Trump say he would like to see Dr. Ford and Judge Kavanaugh interviewed by the FBI as part of this investigation and that the FBI should be able to interview anyone—anyone—appropriate. We have to now make sure that those comments reflect what the White House has officially told the FBI.

Democratic Senators, led by Ranking Member FEINSTEIN, have asked the White House what parameters it is giving to the FBI, but we haven't yet received the reply, so we need an official document from the White House made public so the whole country knows what the scope is, and it should outline the scope of the investigation.

We told the President: If you are truly giving the FBI the ability to follow the facts wherever they lead, show us; show us what White House Counsel Don McGahn has instructed the FBI. Because prior to President Trump's off-the-cuff comments in the Rose Garden, there were rumors that the majority staff of the Judiciary Committee were drawing up limited interview lists for the FBI and otherwise circumscribing the investigation. Partisan staffers on the Judiciary Committee should not exercise any constraints over this investigation.

Democratic staffers asked the Republican majority staff to get on the phone with Counsel McGahn to discuss what should be the parameters, and they were told: Forget it. It is the same partisan staff who has blocked documents, who has operated in a purely partisan way, and who couldn't come up with an agreement when these things had always been done in a bipartisan way. To let the partisan Senate staff on the Republican side dictate the terms of this investigation would be wrong.

Ultimately, President Trump and Counsel McGahn know the buck stops with the White House. It is only they who can instruct the FBI. Now that the President has said he wants a full investigation, that he wants both Dr. Ford and Judge Kavanaugh to be interviewed, we assume that will happen, but we want to make sure Mr. McGahn tells the FBI just that.

The Senate and the American people deserve to know what is the scope of the investigation because this investigation must be done in a manner that allows the public to have confidence in its findings. Whether you are for or against Judge Kavanaugh going to the Supreme Court, it will only benefit the country if the investigation is regarded as fair, clear, and not constrained, particularly by partisan means. For that reason, we hope the FBI will be available to brief the Senate on the results of the investigation before a final floor vote.

Democrats are not interested in delay for the sake of delay. This can all be completed quickly, but it must be done right.

We are a society based on the rule of law. It is therefore crucial that the

American people have faith in the judiciary, especially the Supreme Court.

Our job as Senators is to decide if someone has the intelligence, the temperament, the independence, and the credibility to earn the title of Justice for a lifetime. Character matters. Character matters deeply.

Anyone who watched the Judiciary Committee hearing on Thursday should have serious, if not disqualifying, doubts about Judge Kavanaugh's credibility and independence—qualities we should expect in any Supreme Court Justice.

First, let me address the nominee's independence. After Dr. Blasey Ford's courageous, polite, detailed, and credible testimony to the committee, Judge Kavanaugh embarked on a partisan screed, angrily implicating sitting U.S. Senators in a conspiratorial plot to destroy his nomination. He even had the temerity to label the recent allegations a part of some "revenge of the Clintons," an absurd and shopworn boogeyman of partisan Republicans from the Gingrich era on forward. That was from Judge Kavanaugh's prepared opening statements.

When questioned, Judge Kavanaugh impugned the motives of sitting Senators, rudely interrupting and dismissing questions in a way I have never seen tolerated from a witness. Judge Kavanaugh asked a Democratic Member of this Chamber whether she had ever blacked out from drinking—an offensive question asked by a nominee who was there to provide answers, not evade answers by asking very nasty questions.

It was quite clear from Thursday's testimony that Judge Kavanaugh harbors deep, deep partisan resentments. That is not the kind of Justice we need on the Supreme Court.

I must say, this isn't the first time I thought that Judge Kavanaugh was too partisan. When he came before the Judiciary Committee in 2004 and 2006, I noted that he was involved in every major legal partisan fight of the Clinton and Bush eras, from Ken Starr to Bush v. Gore, from torture to signing statements to Manny Miranda's theft of Democratic emails. I wondered then, as I do today, whether we should promote a loyal partisan warrior to a position that calls for independence and judiciousness.

Frankly, Judge Kavanaugh's testimony was a stunning display of partisanship and recrimination that solidified my skepticism about his objectivity and independence. I understand these issues are emotional. I understand that his character was being questioned. But rather than providing sincere and measured testimony in his defense, which would have been far more effective, Judge Kavanaugh revealed that his world view is skewed by a very partisan lens.

Let me address probably the most important question about Judge Kavanaugh: his credibility. President

Trump has suggested that it doesn't matter what someone did 36 years ago in high school. Whatever view you take of that notion—I believe, given the seriousness of what Dr. Ford said, it should matter—the question about Judge Kavanaugh's credibility is one that weighs on us today, on his behavior right now. It is a question not about what Judge Kavanaugh did as a 16- or 17-year-old but what he has said as a 53-year-old nominee to the Supreme Court.

The harsh fact is that we have mounting evidence that Judge Kavanaugh is just not credible. He has dissembled about the Bush administration's policies on torture, the nomination of controversial judges, grand jury proceedings, and the theft of Democratic emails. Thursday's hearing provided fresh examples of Judge Kavanaugh's difficult relationship with the truth. Judge Kavanaugh gave answers about his yearbook page, supposed drinking games, and high school behavior that simply defy credulity. Judge Kavanaugh said he "never" drank so much that he forgot events—a characterization that does not track with multiple descriptions made by many high school and college classmates.

So the 64,000 dollar question is this: Is Judge Kavanaugh credible? Will Judge Kavanaugh say anything, deny anything, mislead about anything to secure confirmation to the Supreme Court? Does he have the integrity, the independence, the credibility to do the job? Does Judge Kavanaugh deserve the promotion of a lifetime, for a lifetime? These very serious questions about Judge Kavanaugh's state of mind and who he is today, not who he was in 1982, should weigh on the conscience of every Senator.

In my experience with Judge Kavanaugh, in 2004, in 2006, and again throughout this process, I am left with the impression that Judge Kavanaugh would dissemble, mislead, even prevaricate—even prevaricate—about everything from the momentous to the mundane—whatever it takes to cast his nomination in the most favorable light. Faced now with the gravest of allegations and the sincere testimony by a very courageous woman, I believe the Senate should consider the issue of credibility to be front and center in deciding whether Judge Kavanaugh deserves a seat on the bench—a lifetime appointment to the most important court in the land.

I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

NOMINATION OF BRETT KAVANAUGH

Mr. MCCONNELL. Mr. President, the confirmation process for Judge Brett Kavanaugh, one of the most qualified and most impressive Supreme Court nominees in our Nation's history, is moving forward.

On Friday, the Judiciary Committee reported this nomination favorably.

Then, here on the floor, we officially moved to take up the nomination. Every Republican member of the committee agreed that Judge Kavanaugh should be reported out with a favorable recommendation, and every Democrat voted in opposition—in some cases, before he or anyone had even been nominated.

That last part shouldn't really surprise anyone. Democrats have made no real attempt to disguise that this was a pure partisan calculation for them from the beginning.

Several of them had announced their opposition to Judge Kavanaugh's nomination long before his original hearings even began, before they had questioned him on his judicial record they deem so problematic and, in some cases, more than 2 months before Dr. Ford's allegations of misconduct were made public.

The Democrats didn't mince any words. The way one Democratic member of the Judiciary Committee put it: Supporters of Judge Kavanaugh are—listen to this—"complicit in the evil." That is a Democratic member of the Judiciary Committee.

Another Democrat on the committee, before Judge Kavanaugh was even named, described in almost apocalyptic terms the consequences of whomever the President might nominate. Here was the quote: "We are looking at the destruction of the Constitution of the United States as far as I can tell."

And here was the Democratic leader, just hours after Judge Kavanaugh was nominated: "I will oppose him with everything I've got." Well, they have certainly done just that. They have done just that.

The ranking Democrat on the committee first heard from Dr. Ford on July 30. Did our colleague alert the chairman so the committee could do due diligence in a confidential way, consistent with Dr. Ford's wishes? No, she did not. Did she discretely raise the issue with Judge Kavanaugh during her private meeting with him on August 20? She didn't do that, either. As best we can tell, the Democrats chose to keep this allegation secret, rather than investigating in a bipartisan and timely way; in fact, they held it in reserve. Meanwhile, the senior Senator from California, or her office, were already in communication with Dr. Ford. In fact, her office had already recommended—recommended—that Dr. Ford retain a particular Washington, DC, law firm.

The firm in question is not exactly foreign to Democratic politics. Two of its founding partners, including one of the attorneys who personally appeared at the hearing to represent Dr. Ford, had until recently been scheduled to hold a fundraiser for one of our Senate Democratic colleagues tonight. Oh, and by the way, the firm had also represented in another matter the person who has made the most salacious and disgusting accusations against Judge Kavanaugh as a high school student. This is the firm the Judiciary Com-

mittee Democrats recommended to Dr. Ford.

Not long thereafter, of course, Dr. Ford's letter to the senior Senator from California wound up in the hands of the press. The same letter in which she asked for confidentiality was leaked. By whom? As best I can tell, nobody had possession of this letter, except for Dr. Ford's Democratic Congresswoman, the Democratic side of the Judiciary Committee, and presumably the politically connected lawyers they recommended to Dr. Ford. And somehow—somehow—it ended up in the press. Dr. Ford's plea for privacy was brushed aside. A predictable media circus was launched.

Of course, the questionable and concerning handling of this matter didn't stop there. In her testimony, Dr. Ford seemed surprised that Chairman GRASSLEY had offered her legal team a number of more discrete and less burdensome ways to share her story if she preferred. The chairman had offered to fly investigators out to California, or anywhere else, for a private interview at a time and a place of Dr. Ford's choosing. But, apparently, neither our Democratic colleagues nor the lawyers they recommended felt it was necessary to make these options clear to Dr. Ford.

She told the committee: "I wasn't clear on what the offer was. . . . [I would have] been happy to speak with you out there"—referring to California. "It wasn't clear to me that was the case."

So let's take stock of all of this. The ranking member withheld serious allegations from committee colleagues, precluding any chance that they would be handled with sensitivity and discretion. Meanwhile, her staff made recommendations that the accuser retain specific, politically connected counsel. Then, her confidential account reached the media faster than it reached either the chairman of the committee or the FBI, which our colleagues have been insisting must now look into it. Finally, we had reason to believe that Dr. Ford was not even apprised of the chairman's offers to collect her testimony in ways that might have been less likely to create a media circus and less burdensome on her. It is almost as if Dr. Ford didn't want a Washington, DC-based media circus, but others with whom she was in contact and on whom she was relying wanted exactly that.

So we have learned that if you confide in Senate Democrats on highly sensitive personal matters, no request for confidentiality will keep you from becoming a household name. And even if you are a nominee whose judicial philosophy Senate Democrats deem to be objectionable, no centuries-old standard of presumed innocence will protect your name, your family, or your reputation from irreparable damage.

Now, fortunately, Chairman GRASSLEY has taken action to clean up this mess.

Last Thursday, he supervised a professional and respectful hearing. He retained an experienced sex crimes prosecutor to methodically collect the details of Dr. Ford's recollections. This is a professional who is recognized as "Outstanding Arizona Sexual Assault Prosecutor of the Year" by former Democratic Governor Janet Napolitano—a former Cabinet Secretary of President Obama's and herself a member of Anita Hill's legal team back in 1991.

Here is what she wrote in her memo to Members following the hearing:

A he said, she said case is incredibly difficult to prove. But this case is even weaker than that.

Dr. Ford identified other witnesses to the event, and those witnesses either refuted her allegation or failed to corroborate them. I do not think that a reasonable prosecutor would bring this case based on the evidence before the Committee. Nor do I think that this evidence is sufficient to satisfy the preponderance-of-the-evidence standard.

That is a lower standard.

Will our Democratic colleagues listen to this expert opinion, although it conflicts with their political mission? Don't hold your breath. Nor am I optimistic that they will stay consistent and accept the conclusions of the supplemental background investigation the FBI is now conducting on top of its six prior investigations of Judge Kavanaugh.

Democrats demanded a supplemental investigation. They proclaimed it would be a game-changer. The Democratic leader and the ranking Democrat on the committee both said recently that an FBI investigation can be completed in less than a week, but I would bet almost anything that after it runs its course in the next few days, we will then be treated to a lecture—a lecture—that anything short of a totally unbounded fishing expedition of indefinite duration is too limited or too arbitrary or somehow insufficient. We all know that is coming.

If you listen carefully, you can practically hear the sounds of the Democrats moving the goalposts. Remember, back in the summer, Democrats said there weren't enough documents to get a good sense of Judge Kavanaugh's career. Then we heard there were too many documents. Then once Dr. Ford's private allegation was mysteriously made public, we couldn't possibly move forward until we heard from them both. Then, after neither the hearing nor the statements of supposed witnesses yielded any corroborating evidence and, in fact, produced evidence that supported Judge Kavanaugh, we were told that only an FBI investigation would resolve this and that it could be done promptly. So let me go out on a limb. Let me make a small prediction. Soon enough, the goalposts will be on the move once again.

I would respectfully say to my colleagues: Do these actions suggest this has ever been about finding the truth? Does anybody believe that? Do these actions suggest this has ever been

about giving Judge Kavanaugh a fair hearing?

This institution has seen before episodes somewhat like what we are now seeing from some of our colleagues across the aisle. Back during the McCarthy era—in fact, in 1950—character assassination and uncorroborated allegations were being utilized in a very different debate. That is when a distinguished Senator from Maine named Margaret Chase Smith—an icon from the great State of our colleague Senator COLLINS—went to the Senate floor to say enough was enough. She gave a speech that guaranteed she would be in the history of the Senate. She titled it “Declaration of Conscience.” Here is what she said:

I do not like the way in which the Senate has been made a rendezvous for vilification, for selfish political gain at the sacrifice of individual reputations and national unity.

Margaret Chase Smith went on:

Whether it be a criminal prosecution in court or a character prosecution in the Senate, there is little practical distinction when the life of a person has been ruined.

We should listen to these words. They speak as loudly today as they did 68 years ago.

In my judgment, the pattern of behavior we have seen confirms what Democrats’ own public statements have told us: They are committed to delaying, obstructing, and resisting this nomination with everything they have. They just want to delay this matter past the election. That is not my supposition; that is their plan. According to another Democratic member of the Judiciary Committee, the junior Senator from Hawaii, that is their plan.

Soon I expect we will hear that the conclusions of the expert prosecutor who questioned both witnesses at last week’s hearing aren’t reliable or that the FBI’s investigation was not infinite or endless enough for their liking. Maybe we will hear that the real issue is not these uncorroborated allegations of misconduct after all but, rather, the fact that Judge Kavanaugh—now, listen to this—drank beer in high school and in college or the fact that he was, rightfully, angry—who wouldn’t be?—that his good name and his family have been dragged through the mud with a campaign of character assassination based on allegations that lack any corroboration. Who wouldn’t be angry about that?

Their goalposts keep shifting, but their goal hasn’t moved an inch—not an inch. The goal has been the same all along. So let me make it very clear. The time for endless delay and obstruction has come to a close. Judge Kavanaugh’s nomination is out of committee. We are considering it here on the floor, and we will be voting this week.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LANKFORD). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, after the tumultuous week just past, after the fireworks during the Kavanaugh hearing—the second hearing—I think we all needed a little bit of time to decompress and to digest what exactly happened. I am, of course, referring to this contentious hearing over the confirmation of Brett Kavanaugh. It was fair and necessary, in my view, to hold the hearing because Dr. Christine Ford, against her wishes, as it turned out, was thrust into the national spotlight by our Democratic colleagues. Once there, we believe she deserved her chance to tell her story. Just as importantly, Judge Kavanaugh deserved a chance to speak to the American people and to clear his name.

I have told people before, and I will say it again, I want to make sure Dr. Ford is treated no worse than my own daughters would be if they found themselves in this unfortunate circumstance or my mother or my wife. Similarly, I think Judge Kavanaugh should be treated as well as we would want our father, our brother, our son, or somebody’s husband were they to find themselves in his circumstances.

This is about fairness in the end, fair process, one that gives everybody a chance to tell their story. One of the things that makes this so different is we know many of the Senators listening to this testimony—almost half of them—throughout the Senate had already made up their minds. I would hate to walk into a courtroom where the judge and the jury had already made up their minds without even hearing from the witnesses. Unfortunately, that is the kind of hearing room Judge Kavanaugh walked into last week.

We have heard Dr. Ford’s story, and we have heard Judge Kavanaugh’s strong and forceful rebuttal. What is so unusual now—I guess the goalposts seem to shift every day, maybe even every hour—some people are saying Judge Kavanaugh’s rebuttal and his denial was so forceful, and he was obviously so upset, that somehow negatively reflects on his judicial temperament, and then he is disqualified for trying to defend his good name.

I will defy any Member of the Senate—frankly, anybody in the country—whose reputation and way of life was threatened with destruction, whose reputation as a father, as a husband, as a member of the second highest court in the country under similar attack on their reputation and their good name not to be angry about that if they believed the allegations against them were completely false. What we found is, there is simply no evidence to corroborate or confirm Dr. Ford’s allegation.

We have all heard the individuals who Dr. Ford said were present the

night of the alleged assault either have no recollection of such a party or say the assault never happened. That includes one of Dr. Ford’s best friends at the time, Leland Keyser, who said she doesn’t remember ever meeting Brett Kavanaugh and certainly she wasn’t present at an event such as Dr. Ford described.

This brings us back to the hearing last week. We watched Judge Kavanaugh defend his personal integrity and his good name in front of the Nation. True, he did demonstrate some righteous indignation at the way our colleagues across the aisle have handled this confirmation. He became very emotional as he choked back tears, but I must say, he wasn’t the only one choking back tears during his defense of his good name and reputation. There were many eyes around the room and across the country that were not dry. He didn’t aim his fury at Dr. Ford but rather at the atrocious way the claims were sprung on him at the eleventh hour, using an unfair process that violated the rules of the Judiciary Committee. They were not handled in the normal way, which would have respected the privacy and the desire for confidentiality for Dr. Ford but at the same time made sure a good man was not smeared in public by allegations that could not be proven.

We know when Dr. Ford’s allegations were brought to the attention of the Judiciary Committee in July—specifically to the ranking member, Senator FEINSTEIN—she didn’t share those with either the FBI, which she ultimately did long after the first hearing, or with the Judiciary Committee background investigation professional staff. That is the way they should have been handled. As a matter of fact, Dr. Ford said when she heard we would have interviewed her in California in a private, confidential setting about her allegations, she said: Nobody ever told me that.

She was thrust against her will into this national spotlight and circuslike atmosphere. Somebody is not helping Dr. Ford. Somebody is thrusting Dr. Ford into this position against her desires and expressed wishes, leaking her letter, which she asked remain confidential. It is, unfortunately, a pattern that is beginning to develop here.

That brings us back to the hearing last week. As I said, we watched the judge defend his integrity in front of the Nation, but we know the allegations of Dr. Ford were held until the time was right, when they could be unveiled and weaponized and inflict the maximum amount of damage.

By the look on some of my colleagues’ faces during the hearing last week, Judge Kavanaugh struck a nerve. I think they started to realize what these last couple of weeks must have been like for him and his family—his wife, his two daughters, his parents—and the girls he coached in basketball. I think that is why the judge felt like he had to defend forcefully his

good name and reputation against unproven allegations. And who among us would do anything less?

We don't live in a country where once accused of something you are assumed to be guilty. That would be a violation in a court of due process of law. There is the presumption of innocence and the requirement that if you are going to make serious allegations against somebody—and, in this case, allegations of a crime—you have to meet certain standards. You have to prove it.

But here, as we found out, Dr. Ford's allegations were not proven. All of the people who, according to her, could substantiate her allegations said: I don't remember anything like that. I was never present at such an event.

But that doesn't seem to bother any of our colleagues who had already decided to oppose this nomination. That is one of the things I hate the most about Washington, DC. It is not enough to win an election. It is not enough to win an argument for some people. They want to destroy you. It is an ugly, cruel, and reckless way to treat another human being.

I wish I could say that some of my colleagues across the aisle expressed one ounce of remorse and publicly stated: You know, the way we handled this might have been wrong. Maybe we should have done it a different way. Maybe we should have raised the issue much earlier, as the normal way of processing such an allegation would be handled, in a way that protected Dr. Ford and gave her a safe environment to tell her story and be questioned by the bipartisan professional staff who handle background investigations, as well as the FBI.

We could have done that in a way that respected Dr. Ford's wishes, but we did not because of the way this has been mishandled. So far as I can tell, none of our colleagues across the aisle who have foisted this unfair, embarrassing, disgraceful process on Dr. Ford and Judge Kavanaugh—none of them—expressed any regret or remorse or offered any apologies.

They haven't been willing to admit that their stealth tactics have done damage to one man and his family, to the Senate, to the Supreme Court, and to our national fabric, at the same time exposing Dr. Ford to the sort of public scrutiny and spotlight about which she asked—she implored—Senator FEINSTEIN: Please, protect me from that sort of environment.

We could have done so if it had been handled the right way. Our colleagues across the aisle have simply refused to cooperate at all in the process. They called for an additional supplemental FBI background investigation, but when we tried to question witnesses at the staff level in a bipartisan way, they simply refused to participate.

None of them have said the obvious, which is that it is pretty odd that Dr. Ford's lawyers apparently didn't tell her that investigators volunteered to go to California to speak with her in

private. It is downright strange that she didn't know she was being directed to Democratic lawyers and being sent off for polygraph examinations instead of being directed to the FBI or the Senate Judiciary Committee's professional staff.

Our colleagues across the aisle have never questioned that their allies' motives were anything less than perfectly righteous or pointed out the political convenience of any of this—that their assault on one man's integrity is convenient; in other words, that this has been self-serving for our friends across the aisle who were already committed to oppose the nomination, no matter what. None of this makes it any less callous.

So now we have agreed and the White House and the FBI have agreed to conduct a supplemental background investigation, something that could have been done months ago. It should have been done. It will last no more than 1 week, but it could take less time too. It is up to the FBI to determine who they believe they should interview for the supplemental background investigation, limited to up to a week and based on current and credible accusations. Those are the criteria.

Our colleague from Delaware and others during the hearing suggested that this period of time was sufficient. Back when we were discussing what was going to happen at the markup on Judge Kavanaugh's nomination last Friday, every single one of the Democrats on the Senate Judiciary Committee said: Just give the FBI 1 more week, and that is what is happening.

But it will not make any difference. They are not persuadable. They have already made up their minds.

But it would not surprise me if at the end of the week, they raise their voices, which they have already begun to do, and move the goalposts, change their tune, find some fault with the FBI's investigation or the length of time in which it was conducted. I wouldn't be surprised because that is the way they have conducted themselves since the President announced Judge Kavanaugh as the nominee—always finding reason to delay, asking for something, and if they are given it, well, that is not enough.

Though I did not think an additional or supplemental background investigation was necessary, I am not opposed to the supplemental FBI investigation. What we already know is that the three people who Dr. Ford said were present at the party have all given sworn statements under penalty of felony saying: I don't remember, or it didn't happen, not in my presence. They are already under oath and can be prosecuted if they are not telling the truth.

I am not quite sure what the FBI is supposed to ask them after that, if they said: It didn't happen, or I don't remember, or it didn't happen; I wasn't there.

I am not sure what else they can really investigate, but I ultimately be-

lieve that given the state of the record, I don't believe the FBI supplemental background investigation will significantly alter the situation we find ourselves in currently. That situation is this: If the allegations we discussed during last week's hearing remain uncorroborated and unproven, if they never came up in the context of six or other FBI background checks, if they have been explicitly denied time and again by the nominee, if alleged eyewitnesses have no recollection of them and/or say they didn't happen, if they conflict with the accounts of many, many women who knew the nominee to behave honorably in high school, college, and law school and as a professional, and countless more women who have known and interacted with Judge Kavanaugh since, if the timing seems calculated, unusual, and politically motivated, and if our Democratic colleagues chose not to act on this opportunity when it was much more appropriate than now for them to do so, then there is simply no reason why we should not move forward. The die is cast, and it has been cast for quite a while.

A number of our colleagues announced against President Trump's nominee for the Supreme Court before he was even identified, and a dozen or so more shortly after he was identified, without the benefit of any of the hearings that the American people have been a party to.

Move forward we will, soon, because we simply cannot in the United States of America establish a precedent by which any nominee can be derailed by last-minute, unproven accusations. If we do, then why would anyone want to subject themselves to this process? Anybody and everybody who is nominated to a Senate-confirmed position would be subjected to this same precedent once set: guilty until you prove your innocence.

Well, I wasn't there at the time that this was alleged. Well, you still have to prove a negative. You say you weren't there, but you still have to prove your innocence.

That is the opposite of what the presumption of innocence calls for. That is the opposite of what due process of law calls for. That is the opposite of what our constitutional system demands in fairness to everybody involved.

If that precedent were set—which I pray it will not be set—the only ammunition the opposition would need to shoot down any figure at any time would be innuendo, speculation, suspicion, and nothing more. We can't let that happen. We are not going to allow that to happen, and we are not going to set that kind of precedent.

It always seems that it is never quite enough to satisfy our colleagues across the aisle, particularly when it comes to the war over judicial confirmations and now the Kavanaugh nomination. It is always more, more, and more: Set the goalposts, move the goalposts, and backtrack from what you have agreed

to, all in the interest of more delays, which provide more time for the unproven, uncorroborated smears on the character of the nominee and more pain and anguish for the family, who has to suffer along with the nominee and endure these malicious, false, and unproven allegations.

Where does it end? Well, it should end this week. The longer this goes on, you will find more attention seekers, more lawyers who want to see their name in lights or give media interviews and help their business, perhaps, I guess.

I think it is completely unfair that Judge Kavanaugh has been made into a pinata. Opponents to this nominee and the media are practically gleeful at taking another whack at him, completely oblivious to what they are putting this good man and his family and friends through.

I have always supported Judge Kavanaugh's nomination. I did when he was nominated to the DC Circuit Court of Appeals, and I do now because I know him to be an upstanding and well qualified individual.

I first met him back in the year 2000, as I mentioned, preparing for an argument before the U.S. Supreme Court, when I was Attorney General. I met Brett Kavanaugh because he was one of the best lawyers in Washington, DC, to help you get prepared to argue a case before the Supreme Court.

But it is not just my experience with Brett Kavanaugh. Everybody who has practiced with him has said that. Condoleezza Rice, the former Secretary of State, who worked with him at the Bush White House, has said that. Other law professors and law clerks have said that. Hundreds of women who know him have said that. We know he has a brilliant legal mind, and we know his good work over the last 12 years on the DC Circuit Court of Appeals. Many cases where he has written the opinion of the court have been adopted by the Supreme Court of the United States, essentially, as the law of the land.

How do we know he will exercise the kind of care, temperament, and fairness that we would expect of a member of the U.S. Supreme Court? Because he already has for the last 12 years. He will judge those before him fairly and carefully.

Judge Kavanaugh belongs on the Nation's highest bench, and by the end of this week, it will be time to put him there. Enough is enough.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MORAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORAN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-MEXICO-CANADA AGREEMENT

Mr. MORAN. Mr. President, I come to the floor this afternoon to speak about an announcement that occurred last night that an agreement had been reached to modernize the North America Free Trade Agreement. The new agreement, named the "United States-Mexico-Canada Agreement" or "USMCA," will bring this trade pact between our countries into the 21st century.

Over the last year and a half, I have been working with my colleagues and others in the administration to make clear to President Trump, Ambassador Lighthizer, Secretary Ross, and my Senate colleagues of the importance of trade and exports—whether that was in meetings with the President and his Cabinet officials, through my subcommittee chairmanships, through speeches here on the Senate floor, or with many of my constituents in Kansas whose livelihoods depend on trade.

I have written numerous letters to U.S. agricultural leaders and various agricultural organizations, followed up by speaking engagements across the country at the annual meetings of national farm and ranch groups to rally producers to fight to preserve trade relationships with Canada and Mexico.

I have spent a lot of time in Kansas at nearly 100 townhall meetings in the last 2 years attended by various agriculture and commodity groups.

I have talked to local media where folks are particularly interested at home about the issue of NAFTA and trade.

In each of these instances, I was clear that withdrawing from NAFTA without a replacement agreement would be devastating to the Kansas economy. While NAFTA modernization was due to reflect changes in the economy since its enactment almost 25 years ago, the agreement has been critical to growth in agricultural exports and has created countless manufacturing jobs in my State.

As a result of NAFTA, Canada and Mexico are two export markets that account for approximately 39 percent of total exports from Kansas. We, as Kansans, sell more aerospace parts and products to Canada than anywhere in the world and more food and commodities to Mexico than anywhere in the world.

Importantly, the new agreement includes all three countries. As I conveyed to the President when the bilateral U.S.-Mexico agreement was announced, a final deal without Canada would be a significant step backward from the agreement in place today. I applaud President Trump for taking these concerns seriously and, while engaging in tough negotiations, recognizing the benefit of all three nations being included in the final agreement.

The road ahead for this new agreement will not be easy. I am carefully reviewing the agreement's details and look forward to additional economic analysis on the impact it would have—

particularly on Kansas but on farmers, ranchers, and manufacturers across our country and, equally of importance, the impact upon their employees.

Once the President signs the agreement, it will be up to Congress to consider and vote to approve the U.S.-Mexico-Canada Agreement—most likely next year. However, today farmers and ranchers are breathing a sigh of relief, as the announcement brings greater certainty at a time when producers are facing extended periods of low commodity prices. Agricultural conditions in our State, due to drought and due to commodity prices and the uncertainty of export markets, are a significant challenge.

Simply put, we produce more in this country than we can consume. Farmers, agricultural leaders, and commodity groups spend their own time and money developing export markets. We have many checkoff programs designed to encourage the sale of agriculture commodities from Kansas and the United States around the globe. Over a span of years and sometimes even decades, U.S. producers have built relationships with customers around the world based upon our ability to consistently deliver high-quality commodities at competitive prices. This agreement ought to inspire confidence in our purchasers in Mexico and Canada, as well as around the world, that America will continue to be a reliable supplier of food and agricultural commodities.

Under the new agreement, all agricultural commodities that currently have duty-free access under NAFTA will continue. In addition, U.S. dairy producers who had a long, difficult time with Canada's supply management system will enjoy greater market access to the Canadian market.

A trilateral agreement is also critical for aerospace, auto, and other manufacturers in Kansas who rely on an integrated North American supply chain. Withdrawing from NAFTA or excluding Canada from the agreement would have disrupted markets and cost Kansas jobs.

I am hopeful that negotiations will continue with Canada and Mexico to resolve section 232 steel and aluminum tariffs that have raised prices for Kansas manufacturers and their customers, as well as resulted in retaliation against U.S. producers, including pork producers in Kansas.

While I come to the floor to commend an agreement being reached on modernizing NAFTA, we have a lot of work to do to resolve current trade disputes while building new export markets.

The trade dispute with China has harmed farmers and ranchers when they can least afford it. Producers have faced low prices and declining income for the better part of a decade. I remain concerned that if we lose major export markets, we will see a prolonged downturn in the prices instead of the recovery that is so desperately needed and desired.

Since the start of the trade dispute with China, soybean prices have fallen over \$2 per bushel, which equates to Kansas farmers and grain handlers losing out on \$378 million of possible revenue solely on soybeans.

Kansas is the top sorghum-producing State in the Nation. About half of the sorghum produced in the country is exported, with 90 percent of exports previously going to China. It is estimated that the decline in sorghum prices due to China's tariffs will result in about \$87 of lost revenue per acre planted in Kansas.

I have held two hearings to review the administration's trade policies in the Appropriations subcommittee that I chair—Commerce, Justice, Science—including a hearing with Ambassador Lighthizer. These hearings offered me and my colleagues the opportunity to express directly to the administration the importance of trade and for me to express the importance of trade to Kansas. As chairman of the CJS Subcommittee, I look forward to continuing to engage on the analysis and consideration of the U.S.-Mexico-Canada Agreement and other trade issues.

The ability of Kansans to make a living depends on the opportunity to sell around the world what we grow and produce and manufacture, and I will continue to urge in the direction of more trade, not less. I will also keep working to meet with farmers, ranchers, manufacturers, commodities groups, agricultural leaders, and organizations to make sure their voices are heard, and I will continue to be a component of the ongoing work to promote free and fair trade.

I end my remarks by noting my appreciation to the administration officials for working to make certain these markets remain available to Kansas farmers, ranchers, and manufacturers, providing them with some much needed certainty. I will further analyze the details of this agreement, but I am pleased to say that last night's announcement is clearly a positive development. I thank the administration for their pursuit of a better NAFTA agreement and a conclusion that includes all three countries.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Ms. HIRONO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORAN). Without objection, it is so ordered.

Ms. HIRONO. Mr. President, last week, the Senate Judiciary Committee heard testimony from Dr. Christine Blasey Ford and Judge Brett Kavanaugh about Dr. Ford's account of an attack on her by Judge Kavanaugh and a friend when they were all teenagers.

Dr. Ford acquitted herself with grace and courage in her recounting of the

terrifying experience that has had a lasting effect on her life.

In his own testimony, Judge Kavanaugh dropped the polite veneer he presented at his confirmation hearing when he complimented all of the Senators he had met with and had told the committee "the Supreme Court must never be viewed as a partisan institution." That was then. Last Thursday, he launched into a partisan political screed that contradicted everything he had ever professed to believe about the way judges should behave. He said: "This whole two-week effort has been a calculated and orchestrated political hit, fueled with apparent pent-up anger about President Trump and the 2016 election, a fear that has been unfairly stoked about my judicial record, revenge on behalf of the Clintons, and millions of dollars in money from outside left-wing opposition groups."

It reads like a fever dream, a paranoid fantasy. It is simply not true. It arguably violated the Code of Conduct for United States Judges that binds him as a sitting judge on the Federal appeals court for the DC Circuit.

Dr. Ford's own words undercut Judge Kavanaugh's assertion that a vast left-wing conspiracy is out to get him. In her deeply moving testimony, Dr. Ford said: "I thought it was my civic duty to relay the information I had about Mr. Kavanaugh's conduct so that those considering his nomination would know about this assault."

She went on: "My hope was that providing the information confidentially would be sufficient to allow the Senate to consider Mr. Kavanaugh's serious misconduct without having to make myself, my family, or anyone's family vulnerable to the personal attacks and invasions of privacy we have faced since my name became public."

Dr. Ford was trying to do her civic duty. She was not motivated by revenge on anyone's behalf. She had no part in any organized opposition. She was not fueled by pent-up anger or resentment. In deciding to come forward, Dr. Ford was just a person who thought that if she could only let the President know what Brett Kavanaugh did to her, he would choose someone else.

Yet Kavanaugh attacked and tried to turn Dr. Ford's honest effort into some sort of a dark, ugly ambush. At least he didn't accuse Dr. Ford of being part of the alleged conspiracy that sought to derail his nomination. In fact, when Senator BOOKER asked Judge Kavanaugh if he blamed Dr. Ford for a coordinated effort against him, Judge Kavanaugh said he bore Dr. Ford no ill will and that people in the hearing room, not Dr. Ford, were against him.

We all saw something about Judge Kavanaugh's temperament and character that day that should disqualify him from serving on the Supreme Court of the United States. He was angry. He was belligerent. He was partisan. He went on the attack against the Senators who were questioning him.

These are not qualities we look for in a Supreme Court Justice or in a judge for that matter. But don't take it from me; listen to Judge Kavanaugh himself. In 2016, in the Catholic University Law Review, he wrote about the importance of judges steering clear of politics. He told his readers that "a good judge, like a good umpire, cannot act as a partisan." He said that while it is good for some judges to come with a background in politics or policy, "federal judges have to check any prior political allegiances at the door. You have to shed them." Based on Judge Kavanaugh's testimony last week, it certainly doesn't sound like he has shed his partisan convictions and connections.

In the same law review article, Judge Kavanaugh wrote:

To be a good judge and a good umpire, it's critical to have the proper demeanor. It's important to . . . keep our emotions in check and be calm amidst the storm.

He is not wrong. Indeed, the Code of Conduct for United States Judges backs him up.

Canon 2 of the code reads:

A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities. . . . A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

It further explains in commentary:

An appearance of impropriety occurs when reasonable minds . . . would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.

Canon 3 explains that "a judge should be faithful to, and maintain professional competence in, the law and should not be swayed by partisan interests, public clamor, or fear of criticism."

We need to consider the rules and norms that argue against the kind of intemperate behavior we saw from Judge Kavanaugh because of the allegations brought against him by several sources, all of which deserve a full and fair investigation by the FBI.

I was heartened to see Senators FLAKE and COONS both in agreement to hold off on a floor vote for at least a week while the supplemental background investigation can be completed to look into these allegations. Since the agreement, questions have arisen about the exact nature of that investigation. Is it limited? If so, how? Will all leads be followed, or will the FBI be hamstrung in some way by instructions from the White House?

In the ensuing firestorm, there has been a lot of debate about whether the FBI investigation will be credible and professional and not a perfunctory effort. There are some indications now that the FBI will be allowed to do its job. I hope that will be the case. I expect the FBI to exhaust all possible avenues of investigation that are relevant as to whether Judge Kavanaugh had a pattern of drinking that resulted

in aggression and belligerence toward women.

Some have said that Judge Kavanaugh deserves the benefit of the doubt and that unless Dr. Ford's account can be proven, he should be confirmed, but that confuses the issue. No one is entitled to be on the Supreme Court. The burden should be on Judge Kavanaugh to show he is fit for the job.

Now the Republicans' hired gun prosecutor, whom they hid behind while Dr. Ford was questioned, has published a memo in which she concludes that she could not bring a case based on the evidence heard at the second hearing. Frankly, this conclusion is meaningless. I am sure that in her previous job as a specialist in sex crimes, she would never have proceeded to a trial before an investigation, and she would not have excluded key witnesses. There was no investigation. Key witnesses were not called. I hope this is not the way she would prepare a case.

I have said many times that Democrats didn't need to manufacture reasons to oppose Judge Kavanaugh's elevation to the Supreme Court. Based on his record, his opinions and dissents, his academic writings, and his speeches, I have concluded that he will not be a fair and objective Justice of the Supreme Court. His views on reproductive rights, Native rights, on legal protections for workers, consumers, and the environment, not to mention his very broad views of Presidential protections, are all of deep concern to me.

Now that we have heard Dr. Ford's account and have seen Judge Kavanaugh's angry and combative reaction, it is evident that he should not serve and should not be confirmed to the Supreme Court. We can do better, and the American people deserve better.

I yield the floor.

SPORTS MEDICINE LICENSURE CLARITY ACT OF 2017

The PRESIDING OFFICER. Under the previous order, as in legislative session, the Senate will resume consideration of the House message to accompany H.R. 302, which the clerk will report.

The legislative clerk read as follows:

House message to accompany H.R. 302, a bill to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State.

Pending:

McConnell motion to concur in the amendment of the House to the amendment of the Senate to the bill.

McConnell motion to concur in the amendment of the House to the amendment of the Senate to the bill, with McConnell amendment No. 4026 (to the motion to concur in the amendment of the House to the amendment of the Senate), to change the enactment date.

McConnell amendment No. 4027 (to amendment No. 4026), of a perfecting nature.

McConnell motion to refer the House message to accompany the bill to the Committee on Commerce, Science, and Transportation,

with instructions, McConnell amendment No. 4028, to change the enactment date.

McConnell amendment No. 4029 (the instructions (amendment No. 4028) of the motion to refer), of a perfecting nature.

McConnell amendment No. 4030 (to amendment No. 4029), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Nevada.

LAS VEGAS MASS SHOOTING

Ms. CORTEZ MASTO. Mr. President, 1 year has passed since 58 lives were cut short at the Route 91 Harvest Music Festival. Those wounded and killed that night had come together to have fun, to relax, and to celebrate their love of country music with their friends and families in my hometown of Las Vegas. Instead of a celebration, terror rained down on them that night.

As Nevadans woke up to the news of what happened, many like me were shocked and heartbroken. We asked, how could this happen?

I will never forget going to the family reunification center, where families were looking for their loved ones or were waiting for calls from the coroner, and I will never forget the parents I spoke to moments before their learning that their daughter, Melissa, didn't make it.

In the weeks following the 1 October massacre, Las Vegas demonstrated that we are a tight-knit family who rallies together in times of need. We heard stories of incredible bravery at the scene of the attack—a husband who died to protect his wife on the night they were celebrating their 23rd wedding anniversary; a former marine who turned a truck into a makeshift ambulance and drove more than two dozen people to the hospital; a couple who provided CPR to victims as bullets rained down; a mother who went into mamma bear mode and used her body as a shield to protect her children; hundreds of concert-goers who risked their lives while carrying fellow concert-goers to safety.

All of our firefighters and police officers in Southern Nevada, including the Las Vegas Metropolitan Police Department, the Clark County School District Police, the Las Vegas Fire Department, and the Clark County Fire Department, deserve our utmost thanks for their bravery on the night of the attack. They, along with American Medical Response, MedicWest Ambulance, Community Ambulance, the University Medical Center, Sunrise Hospital and Medical Center, the Valley Health System, Dignity Health, and all of the first responders in Southern Nevada, went above and beyond the call of duty.

On October 1, many of these brave men and women ran toward the bullets, putting their lives in grave danger because they knew it was the only way to save people in need. Nurses and doctors worked all through the night, not just on October 1 but for months afterward to care for the wounded.

Before dawn had even broken on October 2, people in Las Vegas, Reno, and

throughout the State had formed lines at blood banks. Many of the lines were so long they stretched out the door and around the block. The staff at United Blood Services worked tirelessly to process the donations and get the blood supply to our area hospitals.

In the weeks that followed, Las Vegas held candlelight vigils. They donated food, coffee, water, and blankets to help the survivors and the victims' families. They constructed beautiful memorials that still stand as a testament to those taken and to provide healing to every person impacted by events of that night.

The Red Cross and the Department of Veterans Affairs stepped in to bring mobile units to our hospitals.

The FBI and the Nevada Victims of Crime Program helped grieving families secure funds to cover funeral and travel costs.

Our military community stepped in to provide critical support as well. Airmen from Nellis Air Force Base were present at the concert on the night of the shooting and helped evacuate attendees. Nellis medical professionals treated victims and helped saved lives while the military spouse community collected basic necessities for the survivors and the victims' families.

Providers at the Las Vegas-based Behavioral Bilingual Services were instrumental in addressing immigration and language barriers for so many immigrant survivors.

The Clark County staff at the Vegas Strong Resiliency Center has been there for survivors every step of the way, advocating on their behalf and helping them find new jobs, getting them compensation for lost wages, and getting them the mental health care they need.

Airlines like Allegiant and Southwest and medical providers like Valley Health Systems, Medic West, and American Medical Response helped defray costs for the victims and their families.

St. Rose Dominican Hospitals said that they would not bill or require payment from any of the victims they treated, and United Health waived cost-sharing for victims so that they could get treatment for months after the tragedy with no out-of-pocket costs.

The generosity didn't end there. People from all over the world donated more than \$31 million to pay for basic necessities, medical bills, and funeral costs for the victims and their families.

One year has passed since the events of October 1, 2017. I know for many in our community of Las Vegas, and for the hundreds of survivors, it feels as though they have been forgotten, but please know—please know—the survivors and those who were taken will never be forgotten.

We will always hold the names and stories of everyone affected by this tragedy in our hearts and in our minds. In Las Vegas, we are still healing. We